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VOLKSWAGEN

23 August 2002



NHTSA-2002-12231-20

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Subject: *Docket 2002-12231; Part 541 – 543 "Federal Motor Vehicle Theft Prevention Standard", Notice of Proposed Rulemaking published in the Federal Register June 26, 2002 (Application of Parts Marking Requirements)*

Dear Mr. Kratzke:

These comments are submitted by Volkswagen AG, Audi AG and Volkswagen of America, Inc. (Volkswagen).

Volkswagen participated in the preparation of the comments submitted by the Alliance of Automobile Manufacturers (Alliance) and is in full agreement with the positions stated in those comments. However, Volkswagen would like to emphasize some of the issues and to submit some additional supporting arguments.

Effectiveness of Anti-Theft Devices and Increase in the Exemptions that should be Permitted

As submitted in the Volkswagen comments of August 8, 1997, to Docket 97-042, which was a request for comments to the Preliminary Report to Congress on the Anti-Car Theft Act of 1992, anti-theft devices have been effective in deterring vehicle theft. The Alliance comment includes Highway Loss Data Institute reports that substantiate this point and the Volkswagen comments to Docket 97-042 also provided a Canadian study on Volkswagen products demonstrating the theft reduction benefit of anti-theft systems in Canada.

Volkswagen and Audi car lines provide a standard engine system immobilizer and with the exception of the EuroVan MPV also include an anti-theft alarm system which activates an audible and visual alarm in the event of attempted unauthorized vehicle entry. The vehicle theft data published by NHTSA in the Federal Register for each model year has consistently shown the majority of the Volkswagen and Audi car lines to be below the median in theft rate. Because of the relatively low volume of the Volkswagen and Audi car lines in the overall market, the theft rates do fluctuate and in some years certain models did experience a theft rate above the median. However, the ranking on an average basis of the car lines has been below the median.

Volkswagen believes that the continued availability of parts marking exemptions based on anti-theft devices is justified based on their demonstrated and generally accepted deterrence of motor vehicle thefts. Currently, one exemption per model year is available. The continuation of the exemptions or an increase in the allowable exemptions to two per model year is subject to a future Department of Justice report and Volkswagen urges NHTSA to support the allowance of parts marking exemptions to the maximum permitted by statute.

In Europe, immobilizers have been required by regulation on all new vehicles since October 1998. Theft rates have been dramatically reduced and this theft rate reduction was observed beginning 1994, even before the regulatory mandate, when immobilizers started to be introduced by voluntary agreement between the vehicle manufacturers and the insurance industry. For the purposes of theft reduction, the implementation of immobilizers would be much more effective than the continuation or expansion of parts marking.

Parts Marking Requirements

As stated in the Alliance comments, the analysis of the relationship of parts marking to vehicle theft rates, on which the Attorney General relied in its Report of July 21, 2000, is questionable. However, it is recognized that NHTSA is obligated under the statute to publish the NPRM in this Docket in response to that Report.

The Anti-Car Theft Act of 1992 also provides for a long range review of effectiveness of parts marking and anti-theft devices [Section 33103(d)] so that if the Attorney General finds that the application of the parts marking has not been effective, NHTSA is directed to terminate the parts marking regulations that are found to be ineffective. The Attorney General has not published a notice and opportunity for comments relating to the long range review of effectiveness, but when this occurs it will present an opportunity to reevaluate the earlier conclusion which was based on faulty data analysis. The conclusion of the Report which directed NHTSA to publish this NPRM, that parts marking helps law enforcement, was based to a great extent on anecdotal input from a

few law enforcement organizations. The 1998 NHTSA Report to Congress acknowledged the indeterminate statistical evidence for the anti-theft effects of parts marking and took note of the input from law enforcement agencies about the possible benefit of parts marking in law enforcement against auto thefts, but acknowledged it to be anecdotal without any statistical data (page xiii). The bottom line of both the Attorney General's Report in July 2000 and the NHTSA Report to Congress in July 1998 seems to be that, while the theft deterrent effect of parts marking has not been affirmatively substantiated, parts marking represents an anti-theft feature with no apparent negative effects and therefore its implementation has merit.

Volkswagen submits that a regulatory conclusion to implement parts marking with the resulting additional product compliance costs cannot be based on a suggestion that "it can't hurt, so why not require it". While Volkswagen does not currently parts mark any of its vehicles, it has previously submitted cost estimates in comments submitted to Docket 97-042 at \$15.77 per car for parts and labor (not including marking of the engine or transmission) for the Cabriolet Convertible and Corrado car lines which were parts marked during the 1987 to 1994 model years.

Parts Marking Methods

Any parts marking that is mandated needs to avoid limitations on technology and should permit manufacturers to select the most cost effective methods of marking that comply with the NHTSA established requirements in the current Part 541.

Any additional performance requirements that would require stamping would be extremely expensive to implement with essentially no advantage over labels that comply with the current requirements. Any stamping into non-metallic materials can be removed or erased and similarly a marking stamped into metal can also be altered or removed. Although such alteration or removal may leave more evidence of a prior marking than the removal of an adhesive attached label, the ability to trace the part to a specific source is eliminated in either case. Any evidentiary value from the alteration or removal of a stamped identification number or from the removal of an adhesive type label would be equivalent, so there is no benefit from the added cost of any marking that relies on deforming the material of the part rather than just on an adhesive label.

Marking of Glazing and Air Bag Modules

The issues relating to the possible marking of air bag modules and glazing components are discussed in the Alliance comments. Volkswagen and Audi production air bag modules carry a manufacturer applied serial number which is matched and recorded to

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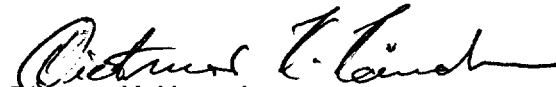
a production vehicle VIN number at factory installation. Thus, there is a capability for identifying a vehicle VIN to any air bag module serial number in question. Any additional marking is costly, carries a risk of possible damage to the air bag module, and would not be necessary.

In the preamble, NHTSA indicates its belief that window glazing theft is not a widespread problem. The factory marking of glazing would present additional production burdens as outlined in the Alliance comment. However, some after-market glass etching programs have been encouraged and implemented in certain areas and this is always available for promotion by law enforcement organizations or by insurance companies if they believe it is of value. Thus, there is no justification for NHTSA consideration of statutory authority or rulemaking for the marking of glazing materials.

Please contact me for any additional information or clarification on the subject of these comments.

Sincerely,

VOLKSWAGEN OF AMERICA, INC.



Dietmar K. Haenchen
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/sgj

cc: Docket Section (6 copies)